

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2444 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

NILAMBEN NARENDRA DESAI

Versus

SURAT MUNICIPAL CORPORATION

Appearance:

MR PB MAJMUDAR for Petitioner
SERVED for Respondent No. 1
TANNA ASSOCIATES for Respondent No. 2

CORAM : MR.JUSTICE R.K.ABICHANDANI

Date of decision: 12/03/96

ORAL JUDGEMENT

Rule. Mr. B.P. Tanna, waives service of rule on behalf of the respondent Corporation.

The petitioner's grievance is that she has not been paid her dues after submitting her resignation from the post of Laboratory Technician to which she was

appointed on temporary basis and had worked since 29.3.1988 upto 11.1.1990. The Commissioner had, in context of her resignation letter and request for payment of dues, made an order on 9.5.1990, holding that she had not waited till acceptance of her resignation and therefore, she had abandoned the post and hence, she was not entitled to any dues. The petitioner appealed against that order and the Standing Committee of the Corporation by it's Resolution No. 1557 dated 30th October, 1993 set aside the order of the Commissioner, accepted her resignation and ordered her dues to be paid up. Thereafter, the Administrator of the respondent Corporation made Resolution No. 633 dated 17.12.1994 setting aside the resolution of the Standing Committee and restoring the order of the Municipal Commissioner dated 9.5.1990, as a result of which the petitioner is denied of her dues.

It is stated on behalf of the petitioner that no hearing was given before the Administrator passed the order dated 17.12.1994, which is now brought on record with the affidavit-in-reply. The petitioner has challenged that order also. It transpires that the petitioner was not given any hearing by the Administrator who was exercising the powers of the respondent Corporation, when he made the impugned order dated 17.12.1994. That order worked to the prejudice of the petitioner who had succeeded in her appeal before the Standing Committee. Before setting aside the order of the Standing Committee, it was necessary on the part of the respondent Corporation to give a hearing to the petitioner. The impugned order dated 17.12.1994 is therefore violative of principles of natural justice and cannot be sustained. The impugned order of the respondent Corporation dated 17.12.1994 is therefore, set aside. It will be open for the respondent Corporation to consider the matter afresh after giving an adequate opportunity of hearing to the petitioner. Rule is made absolute accordingly with no order as to costs.
